

REMARKS

Claims 1-3 and 5-13 are currently pending in the application. The Examiner has indicated claims 8-13 as allowed and Applicants hereby request that these claims be issued. Applicants hereby cancel non-elected claims 1 and 3-7 and Applicants have amended claim 2, the only remaining non-allowed claim, to address concerns raised by the Examiner. New claims 14-16 depend on Claim 2. Support for the amendments to claim 2 and new claims 14-16 may be found throughout the specification and claims as originally filed. (See page 28, lines 17-23.)

Cancellation and/or amendment of claims should in no way be construed as an acquiescence to any of the Examiner's rejections. Cancellation and/or amendments to the claims are being made solely to expedite prosecution of the present application and do not, and are not intended to, narrow the claims in anyway. Applicants reserve the option to further prosecute the same or similar claims in the instant or in a subsequent patent application.

Informalities

Applicants have amended the specification to delete reference to ATCC Deposit numbers. This amendment is believed to obviate the objection. No new matter has been added. Accordingly, reconsideration and withdrawal of the objection is respectfully requested.

Objection to New Matter added to Specification

Claim 2 was objected to because it allegedly introduces new matter into the disclosure. Applicants respectfully disagree with the objection, however, in an effort to expedite prosecution of the application, claim 2 has been amended. This amendment is believed to obviate the objection. No new matter was introduced by this amendment. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

Rejection of Claim 2 under 35 U.S.C. § 112, first paragraph

Claim 2 was rejected under 35 U.S.C. § 112, first paragraph, for reasons of written description. The Examiner states that “[w]ithout guidance on the nucleotide sequence that hybridizes under stringent conditions to SEQ ID NO:2 and is at least 80% identical to SEQ ID NO:2, one skilled in the art would not know how to identify this nucleic acid.”

Applicants maintain that one skilled in the art would know how to identify a nucleic acid that was identified by hybridization under stringent conditions and is at least 80% identical to SEQ ID NO: 2 based on the teachings of the instant application. However, in an effort to expedite prosecution of the application, claim 2 has been amended. Support for the amendment can be found in the instant specification on page 28, line 17- page 29, line 5 and page 25, lines 4-20. Further, the Examiner has indicated that the instant specification contains extensive teachings about how to identify nucleic acids that fall within the claim limitations regarding percent identity (see Office action at pg. 5). No new matter was added by this amendment. Applicants believe that this amendment obviates the rejection. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

CONCLUSION

Applicants consider the Response herein to be fully responsive to the referenced Office Action. Based on the above Remarks, it is respectfully submitted that this application is in condition for allowance. Accordingly, allowance is requested. If a telephone conversation with Applicant's Attorney would expedite prosecution of the above-identified application, the Examiner is urged to call the undersigned at (617) 832-1294.

Applicants believe that no fees are due other than those submitted herewith in association with this submission. However, if any additional fees are due, the Commissioner is hereby authorized to credit any overpayment or charge any deficiencies to Deposit Account Number **06-1448, Reference HMV-048.01.**

Respectfully submitted,

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